

EXHIBIT A

Brandon M. DeKuiper
Darryle Pollard vs.

February 27, 2019
City of Muskegon Heights, et al

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

DARRYLE POLLARD,

Plaintiff,

-vs-

Case No. 1:18-cv-404

HON. GORDON J. QUIST

CITY OF MUSKEGON HEIGHTS,
BRANDON M. DEKUIPER, MICHAEL T.
EDENS, and MICHAEL M. RATLIFF,
in their individual and official
capacities,

Defendants.

DEPOSITION OF BRANDON M. DEKUIPER

Taken by the Plaintiff on the 27th day of February 2019, at
the offices of William, Hughes & Cook, 120 W. Apple Avenue,
Muskegon, Michigan, at 10:28 a.m.

APPEARANCES:

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REPORTED BY: Carrie S. Clark-Berry (CSR-4402)
Certified Shorthand Reporter
Registered Professional Reporter

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1 A I don't believe -- I believe it was Officer Kuklewski that
2 took the original. I'm not 100 percent sure.

3 Q And you wrote a supplement and then you also wrote another
4 statement, correct? Didn't you write two things?

5 A I believe I only did one supplement.

6 Q Okay. Your supplement and then didn't you also write
7 another statement?

8 A I don't remember.

9 Q Okay. Well, we'll go over that in a little bit.

10 A Sure.

11 Q So one police supplement that you're certain of, correct?

12 A Yes.

13 Q All right. Anything else you reviewed in preparation for
14 today?

15 A No.

16 Q Okay. Have you ever been sued before?

17 A No.

18 Q Have you ever had a citizen complaint made against you for
19 force or demeanor that you're aware of?

20 A Not to my knowledge, no.

21 Q Okay. Ever been the subject of an internal affairs
22 investigation in the last seven years?

23 A No.

24 Q When is the last time you had any training regarding use of
25 force?

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1 A Probably the academy.

2 Q Okay. And when did you go to the academy?

3 A Kellogg Community College.

4 Q And when did you go there?

5 A '08-09.

6 Q Okay. When is the last time, if at all, you reviewed the

7 use of force policy at Muskegon Heights? Or was it when you

8 were hired in?

9 A Probably when I was hired in.

10 Q Okay. Do you get any performance evaluations that you're

11 aware of?

12 A No.

13 Q Okay.

14 A Well, I take that back. Yes.

15 Q Okay.

16 A At times.

17 Q And what does that mean?

18 A When it's recognized by management, I guess. It's not an

19 everyday thing.

20 Q Okay. Let me see if I can explore that, because I'm not

21 familiar with that response.

22 A Okay.

23 Q Do you get a performance evaluation, written, like once or

24 twice a year that's formal and it's written and you sign?

25 A Oh, I'm sorry, I took your question differently. Yes. I

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1 A In my patrol car a flashlight. No baton.
2 Q Okay. Was a baton standard issue, do you know?
3 A No. I believe it's against policy to have.
4 Q Okay. Was it against policy at the time?
5 A I believe so, yes.
6 Q Okay. Even with that do you know if anybody had a baton?
7 A Nobody had a baton.
8 Q Okay. How is it that you first became aware of an incident
9 occurring at 504 West Cleveland on this particular day?
10 A Dispatch radioed it out.
11 Q And do you recall generally what you were doing at the time
12 of the dispatch call?
13 A I don't recall.
14 Q Okay. Was that a dispatch radio call made to all cars or
15 made to you specifically?
16 A It was made to the district car.
17 Q And what's that?
18 A It would have been 713, I believe is that district,
19 depending if it was a three-man rotation crew or a four-man.
20 Q Okay. You're going to have to -- that's a phrase, actually,
21 I've never heard in my 15 years of doing this. I don't know
22 what a district car is.
23 A The City of Muskegon Heights is broken down into four
24 districts, so to speak, depending on how many cars. If
25 it's -- for an example, if it's a two-man car, meaning two

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- 1 A Yes, I believe so.
- 2 Q And so, again, help me understand this district car. So
- 3 when the dispatch is made to the district car then the
- 4 district car, which was Kuklewski, is the initial responding
- 5 car to the scene?
- 6 A He's the main officer, and then they will dispatch a second
- 7 car depending on availability for backup.
- 8 Q Okay. So the district car is, for lack of a better phrase,
- 9 kind of an officer in charge of that situation?
- 10 A Yes. Whoever gets dispatched to that call is the main guy.
- 11 Q Okay.
- 12 A They make an officer primary and secondary, and I believe
- 13 Officer Kuklewski was the primary officer. I cannot say if
- 14 it was 713 or not.
- 15 Q Okay. And Kuklewski, is he a white male? Black male?
- 16 A He's a white male.
- 17 Q Okay. And so when you heard the dispatch call that would
- 18 indicate that it would go to the district car, right?
- 19 A Yes. Yes, they dispatch the officer over the air.
- 20 Q Okay. At what point did you know or were you requested to
- 21 go to 504 West Cleveland, if at all?
- 22 A I don't recall being requested to go.
- 23 Q Okay.
- 24 A But I do recall a weapon being involved, so I went.
- 25 Q Okay. And the weapon involved, do you know what weapon was

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1 them on a cell phone or went over the radio?

2 A If it's not over the radio -- if they're already on scene

3 and I'm not there yet they wouldn't know if I didn't

4 dispatch it over the radio.

5 Q Okay. And by the time you got in the house, other than you,

6 Sinclair, and Kuklewski was anyone else there?

7 A Yes. As far as --

8 Q Officers.

9 A Yes.

10 Q And who was there?

11 A Officer Edens and Officer Ratliff.

12 Q So tell me the sequence of arrival. It sounds like Sinclair

13 and Kuklewski were already there, then you get there, and

14 then who arrives next?

15 A I can't tell you.

16 Q Okay. But Edens and Ratliff arrive after you?

17 A Either after or at the same time. I don't recall.

18 Q Did you walk into the house with anyone?

19 A I don't recall.

20 Q And what do you do once you enter the side door?

21 A I make contact with Sergeant Sinclair, who's talking to the

22 male half in the kitchen.

23 Q Do you remember the general layout of the house?

24 A From my point of view. Only from what I seen.

25 Q Okay. And what did you see once you entered that side door?

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1 A I believe you entered a small mudroom/breezeway, and then to
2 your left there is possibly two, maybe three, steps that
3 enter the kitchen.

4 Q Okay. Is there a basement in the house?

5 A I want to say there was. If there was one it was straight
6 in front -- straight as you walked right on in, but I'm
7 not -- I can't really say yes or no.

8 Q Okay. Do you remember if there were steps in front or to
9 the right?

10 A As far as --

11 Q Going somewhere.

12 MR. CALLAHAN: When you walked in the house?

13 Q Yup. When you walk in that side door and you're in that
14 mudroom.

15 A When you walk in the house to enter the kitchen you take a
16 left and there's about two or three steps that walk you into
17 the kitchen.

18 Q Okay. And did you stay in the mudroom or did you go up
19 those steps?

20 A I stayed kind of -- I believe I was standing kind of on the
21 steps.

22 Q Okay. Now if there was two or three steps do you know if
23 you stood at like the top step or did you step on like the
24 very first step or --

25 A I don't recall.

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1 Q Okay. And when you're standing on those steps you can see
2 into the kitchen?
3 A Correct.
4 Q Okay. Who was in the kitchen?
5 A Sergeant Sinclair and I believe Mr. Collins.
6 Q And do you have -- could you see what they were doing? Were
7 they standing? Sitting? Talking?
8 A They were standing, and Mr. Collins was giving his side of
9 the story to Sergeant Sinclair.
10 Q Do you know where Kuklewski was at that point?
11 A He was, I believe, in -- somewhere in the house talking to
12 the female half.
13 Q Could you see him when you were standing on the steps of the
14 mudroom?
15 A No, I did not.
16 Q Could you hear them?
17 A I don't recall.
18 Q Okay. On your way to the house could you hear anyone inside
19 the house?
20 A I don't recall.
21 Q Do you remember what the weather was that day? April can be
22 warm or cold. Any idea?
23 A I don't.
24 Q Okay. All right. So at this point you're standing on the
25 steps that lead into the kitchen. You see Sinclair and

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1 A Mr. Pollard arrived. He was confrontational towards Mr.
2 Collins.

3 Q Well, when you say that do you have any idea what he said to
4 make you say he was confrontational?

5 A His tone. His tone. He was yelling. He was aggressive.
6 His body language.

7 Q How was he aggressive and what was his body language?

8 A He was yelling towards Mr. Collins.

9 Q Okay. We already got that. But what -- you said he was
10 aggressive and his body language. What was his body
11 language, or don't you remember?

12 A I don't remember.

13 Q Okay. So what's this argument? Do you remember the gist of
14 it?

15 A I do not remember --

16 Q Okay.

17 A -- the context of the argument.

18 Q All right. What happens at that point?

19 A Mr. Collins then confronts Mr. Pollard on what was said.

20 Q And when you say "confronts," what do you mean? Like
21 physically moves towards him or confronts him verbally?

22 A Confronts him verbally. At that point in time Mr. Collins
23 and Mr. Pollard are at a screaming match between each other.

24 Q Prior to this point did anybody tell Collins or Pollard to
25 quiet down?

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1 A I did, yes.

2 Q Who did you tell that to? Both of them or one of them?

3 A I only recall telling Mr. Collins to quiet down and to exit

4 the house.

5 Q Now you said you told Collins to quiet down?

6 A I'm sorry, I correct that. I told Mr. Pollard.

7 Q Okay. And did Mr. Pollard tell you no or --

8 A I don't recall.

9 Q Did he have a response to that, either physical or verbal?

10 A I don't recall.

11 Q Okay. Now at that point -- so let's do it at this point.

12 You tell Mr. Pollard to quiet down and exit the house. Are

13 you and the other officer still on the same step together?

14 A Correct.

15 Q Is there any other officer now in the mudroom?

16 A I don't recall.

17 Q Okay. So what happens next?

18 A Mr. Pollard tries to get through me and the other officer at

19 that point in time, brushes against me, which makes me take

20 a slight step.

21 Q Now was there any room for anybody to get through the two of

22 you with -- the two officers? You're a decent size guy.

23 How big was the other officer?

24 A A little bit smaller than me but, no, there was no room for

25 a third person to fit between us.

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1 Q Okay. So when you say he tries to get through you, what
2 does he do?

3 A He just kind of just walks right through us.

4 Q So are you saying that he comes up at least one step and
5 tries to walk through the two of you between the two of you?

6 A Correct.

7 Q All right. And does he -- is he successful?

8 A No.

9 Q Okay. Does he get past you and the other officer?

10 A No.

11 Q Does he knock you or the other officer off the step?

12 A No.

13 Q Does he push you with his arms or did he just try to walk
14 through you?

15 A What's your definition of "push"?

16 Q Did he take his hands and push you guys to try to get
17 through you or does he just kind of walk up the stairs and
18 try to nudge his way between the two of you?

19 A He tried to nudge his way.

20 Q Okay. Did he get to the same step as you and the other
21 officer or was he the step below you?

22 A I don't recall.

23 Q Okay. So when he tries to nudge his way between you and the
24 other officer what happens next?

25 A I grab onto -- grab hold of him.

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1 Q And how do you do that?

2 A I grab both hands onto his shoulder.

3 Q Okay. One shoulder or two?

4 A Both shoulders, one hand on each.

5 Q Now up to that point you had told Mr. Pollard to quiet down

6 and exit the house one time, correct?

7 A At minimum, one, yes.

8 Q Well, did you tell him more than once?

9 A I don't recall.

10 Q Do you know if any other officer told him that?

11 A I don't recall.

12 Q So at this point you've got one hand on each shoulder. What

13 do you do?

14 A I escorted Mr. Pollard outside of the house.

15 Q Do any other officers assist you?

16 A I do not recall.

17 Q So at least to the point of the step to outside the side

18 door it's just you and Mr. Pollard that you recall?

19 A Rephrase that again.

20 Q From the point you put your hands on his shoulders to the

21 point you guys are outside past the threshold of the side

22 door all you recall is just you and him?

23 A Officer Edens and Ratliff were there. I do not recall if

24 they helped me escort him out or not.

25 Q Okay. Does Mr. Pollard fight you as you take him out?

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1 MR. CALLAHAN: Objection, form and foundation.

2 Q I could change the word, but then there will be another
3 objection. Does he resist you in any way?

4 A There's some resistance, yes.

5 Q What is the resistance. Describe it for me, please.

6 A Pulling away.

7 Q Do you ever lose your grasp?

8 A I do not recall.

9 Q Does he ever flee? You never have to chase him, do you?

10 A No.

11 Q So the resistance is he tried to pull away. Anything else?

12 A I don't recall.

13 Q And when you say "pull away," how would he have done that?

14 Like try to run away or is he squirming or what?

15 A More of a squirming, preventing us from putting him in
16 handcuffs.

17 Q How about before we get to the handcuffing part? So you're
18 escorting him from this stair to the mudroom to the outside
19 of the home. Up to that point did he resist you?

20 A I don't want to guess, so I don't recall.

21 Q Okay. And that's fair. So what happens outside the house?

22 A Once outside the house there is a parked vehicle just
23 outside the door, and I held Mr. Pollard against that car so
24 that I could get further control of him.

25 Q How is it that he initially made contact with it? Did you

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1 Q And were the other officers around you still Ratliff and
2 Edens?
3 A I believe so.
4 Q Okay. What happens at the car? Well, strike that.
5 Is he facing the vehicle or is his back on the
6 vehicle?
7 A I don't recall.
8 Q Okay. What happens at the vehicle?
9 A Control of his hands were done so we can place his hands
10 behind his back and put him in the handcuffs.
11 Q Any trouble getting his hands?
12 A Again, I don't want to guess, so I don't recall.
13 Q Okay. Did you tell him to give his hands or did you just
14 try to get his hands to cuff him?
15 A I did tell him.
16 Q Okay. And you don't know one way or the other if he didn't
17 give you his hands or if he did?
18 A I don't recall, no.
19 Q Okay. Who assisted in the handcuffing process? Just you,
20 or was it you and possibly others?
21 A Possibly others, but I don't recall.
22 Q Whose cuffs were used?
23 A I don't recall.
24 Q You would agree with me that if he was put against the
25 car and his back -- I'm sorry, the vehicle. If he made

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1 THE WITNESS: Still want me to answer that?

2 MR. CALLAHAN: Yeah. I've got the objection out
3 there. There's no judge to rule on it.

4 A Oh, okay. I do not believe so, no.

5 Q Okay. Did he ever make -- did Mr. Pollard ever make contact
6 with the house, or don't you remember?

7 A It's possible, but I don't remember.

8 Q Okay. Any officer ever put a knee in Mr. Pollard's neck or
9 back?

10 A I do not recall.

11 Q Would there be any reason to put a knee in his back or neck?

12 MR. CALLAHAN: Objection, foundation.

13 A No.

14 Q Up to the point that he's handcuffed -- and he's initially
15 handcuffed behind him; is that correct?

16 A Initially, yes.

17 Q Okay. Up to that point has he complained about any medical
18 condition, back problem, surgery?

19 A I do not recall.

20 Q Okay. If he had would that have been significant?

21 MR. CALLAHAN: Objection, form.

22 MR. CABOT: Yeah, I agree with that.

23 Q If he had mentioned some type of medical condition, recent
24 back surgery, would that have caused you to alter how you
25 dealt with Mr. Pollard?

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1 to say he said it to me.

2 Q Okay. And when you say "escorted to a patrol car," did you
3 escort him?

4 A I don't recall.

5 Q Okay. Do you know who did?

6 A I don't.

7 Q Okay. So you believe, though, once he's in the patrol car
8 he makes this claim of a back injury?

9 A Correct.

10 Q Okay. And what response, if any, do you have?

11 A I believe we put his handcuffs up front.

12 Q And who is the "we" again?

13 A Me and another officer. I remember there was two of us
14 there.

15 Q You don't remember who?

16 A No.

17 Q Okay. So you, what, had him get out of the car to switch
18 them around or would you have him like lean forward?

19 A I don't recall how we did it or how it was done.

20 Q Needless to say, you and another officer, though, undid the
21 handcuffs and did what?

22 A Placed him with his hands in front.

23 Q And then what happened?

24 A I called for medical to have him evaluated.

25 Q And why did you call for medical? Just out of that one

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1 A I believe I had a discussion, but very vague. I don't
2 really remember.

3 Q Where was that discussion?

4 A Where?

5 Q Yeah.

6 A It was on scene. I can't tell you the exact location.

7 Q Do you remember what -- who you were discussing that with?

8 A I don't. I want to say it was Officer Edens, but I'm not
9 100 percent.

10 Q And what prompted the discussion of whether or not you were
11 going to charge him or take him to jail?

12 A Due to the nature of the complaint and the severity of Mr.
13 Pollard pushing against me.

14 Q And -- I'm sorry, were you done?

15 A We felt that was -- charges were not necessary.

16 Q Who felt that? You or Edens?

17 A Well, I did.

18 Q Well, if you felt that charges weren't necessary then why
19 would you ask the question if he would be charged or go to
20 jail?

21 A I don't recall. I just believe it was us discussing it, but
22 we both agreed due to the severity of the situation and the
23 severity of the alleged assault.

24 Q Okay. Based on that you didn't think charges should be
25 brought?

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1 Q Okay. I'm going to hand you what will be marked as
2 Exhibit 3.

3 (At 12:08 p.m., Deposition Exhibit 3 was marked
4 for identification.)

5 Q Okay. Have you ever seen the complaint that Mr. Pollard
6 filed on the incident involved -- arising from the April 19,
7 2016, call?

8 A I do not recall seeing that, no.

9 Q Okay. In your experience do domestic violence calls present
10 any unique possibilities of danger to police or citizens?

11 MR. CABOT: Objection, form and foundation and
12 relevance as to this particular case.

13 MR. CALLAHAN: Sure.

14 A Yes.

15 Q From your experience and training, what kind of
16 situations -- what kind of concerns are there with police
17 officers when responding to a report of domestic violence?

18 MR. CABOT: Same objections.

19 A Concerns of unknown weapons. Emotions are already high.
20 Yeah, just off the top of my head. Officer safety. And due
21 to those possible issues we always send a two-man car.

22 Q When you say "officer safety," what do you mean?

23 A Domestic are very emotional. Usually -- in my experience,
24 a majority of the time an assault has already occurred.
25 Sometimes a weapon is the reason for the assault. Emotions

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1 are already high. For better officer safety, you know, it's
2 hard to separate both parties with one officer. So with two
3 of them we can separate them from each other so that things
4 can calm down and we can de-escalate the situation.

5 Q Okay. When you say "de-escalate the situation," what do you
6 mean?

7 A Talk to them, calm them down. Like I said earlier,
8 separating the two usually helps. If they're a smoker, let
9 them have a cigarette. Something just to calm their nerves.
10 And sometimes the whole theory of out of sight out of mind,
11 so to speak. If they can't see or hear them, you know, that
12 usually helps.

13 Q Okay. And in addition to officer safety are there concerns
14 that you as a police officer have for safety of the people
15 involved in the domestic dispute or neighbors or citizens?

16 MR. CABOT: Objection, form and foundation,
17 relevance.

18 A There's always concerns. Anything can happen. Again, with
19 domestics emotions are already high. You never know when
20 someone's emotion -- or if someone's unreasonable, erratic,
21 they might do something that can harm an officer, can harm
22 themselves, can harm the other person involved, or the
23 general public.

24 Q When you say any "anything can happen," the situation can
25 become volatile very quickly?

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1 Q Okay. How many feet were there between the exterior of the
2 house and whatever vehicle there was that you were trying to
3 place him against?

4 MR. CABOT: Objection, foundation. He said he
5 vaguely remembers.

6 Q Well --

7 A I remember the vehicle being close to the house. I don't
8 know how -- feet-wise, 4 or 5 feet.

9 Q Okay. And do you recall whether -- well, Mr. Pollard was
10 resisting you in getting handcuffs on?

11 A Correct.

12 Q And that's why you placed him against the car?

13 A Correct.

14 Q Okay. And you would have used that force you considered to
15 be necessary when placing him against the car?

16 A Correct.

17 MR. CABOT: Object to the form.

18 Q I mean, it's not an easy, gentle kind of a use of force,
19 it's with effort, isn't it?

20 MR. CABOT: Objection, form and foundation.

21 A Correct.

22 Q Okay. And the amount of force you'd used is in direct
23 relationship to the resistance by the individual?

24 MR. CABOT: Same objection.

25 A Correct.